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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 525

THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY

Petitioner,

vs.

MRS. GEORGE NOTHNAGLE, ET AL.

Respondents

F. R. DANAHER,
Counsel for Respondent

ARGUMENT OF THE RESPONDENT AGAINST ALLOWANCE OF THE WRIT OF CERTIORARI

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The facts, as found by the City Court of Meriden, and reiterated by the Supreme Court of Errors in the State of Connecticut, differ materially from those stated by the petitioner in its "Statement of the Matter Involved". Page 2 of the petition, lines 2 and 3; in "The Question Presented" Page 4, lines 2, 3 and 4; and in its "Argument" in several instances. It would appear that petitioner hopes, by repeatedly misquoting the Lower Court's opinion, to change what the Lower Courts actually found.

The City Court of Meriden found that the respondent purchased a ticket for a passage upon trains of the petitioner from the City of Meriden to the City of New Haven, both within the State of Connecticut, and to Fall River, Mass. See the Record, Page 7 (1).

The Supreme Court of Errors found that respondent purchased a ticket for passage " - - - - - - - - - from Meriden to New Haven, in Connecticut, and to Fall River, in Massachusetts. See the Record, Page 15.

It is agreed that the respondent got off the petitioners' train in New Haven; but there is nothing in the record to show that she went beyond that point, or that she at any time pursued a course that took her out of the State of Connecticut; and the petitioner is bound by the record.

The Court will not grant certiorari to review evidence and discuss specific facts. U.S. vs. Johnston 268, U. S. 220. But will examine the record. Chicago M. and S. T. P. Ry. Company vs. Coogan 271 U.S. 472.

Both Lower Courts found these facts the same way and the Supreme Court of the United States has held in the past that it will not review under such circumstances. Page vs. Arkansas Natural Gas Corporation 286 U.S. 269.

Both Lower Courts found that respondent's journey was intrastate not interstate. New York Central Railway Company vs. Mohney 252. U.S. 152.

Both Lower Courts found that respondent left her bag with the Defendant's Agent for safekeeping and not for transportation. Leigh vs. Smith 138 Connecticut 494.

Both Lower Courts found that the petitioner was liable as an ordinary bailee for the actual value of the property lost. Allen vs. South Pacific Company 213 P. Second 667.

CONCLUSION

Respondent concludes her argument that a writ of certiorari should not issue to review the judgment of the Supreme Court of Errors of the State of Connecticut for the reasons herein stated.

Respectfully Submitted

MRS. GEORGE NOTHNAGLE et al
RESPONDENT

by

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